Kentucky Gazette.

THREE DOLLARS PER ANNUM, "True to his charge—he comes, the Herald of a noisy world; News from all nations, lumb'ring at his back." IN ADVANCE

NEW SERIES—No. 7.—VOL 2. LEXINGTON, KY THURSDAY MORNING FEBRUARY 17, 1825 VOL XXXIX

By the President of the United States.

IN pursuance of law, I JAMES MONROE, President of the United States, do hereby publish and make known that a public sale will be held at Land Office for the District of Salt River, in the state of Missouri, on the third Monday in May next, for the disposal of such lands, now situate within the limits of said District sold at the Land Office at St. Louis, Mo, which were relinquished to the United states prior to the 1st day of October, 1821, under the provisions of the act of Congress approved on the 2d day of March 1821, entitled "An act for the relief of the purchasers of public lands prior to the 1st day of July, 1820," which said lands are situate within the following described townships, viz

West of the 4th principal meridian.

Townships	49, 50 51 53, & 54	of range	1
"	49 50, 51 52, 53 54, & 55	of "	2
"	49. 50 51, 52, 53, 54, 55& 56	of "	3
"	49. 53. 54 55 56, & 57	of "	4
"	49. 54 55. 56. 57 58 & 59	of "	5
"	49 55. 56 57, 58, 59. 60 & 61,	of "	6
"	49, 53 54, 55 56, 57, 58, 59, & 60	"	7
"	49 54, 55, 56,	of	8
"	49, 54, 55, 56,	of "	9
"	54.	of "	10

The sale to commence with the lowest number of section, township, and range, and to be continued in regular numerical order.

Given under my hand, at the City of Washington, this day of January, A. D 1825

JAMES MONROE.

By the President
GEORGE G. A. M.
Commissioner of the General Land Office.

Printers of the laws of the United States in Missouri an Kentucky are authorized to publish the foregoing proclamation once a week until the day of sale.

Feb 17, 1825—7-13

From the Globe & Emerald.

THE FRNCH MINISTRY.

Notwithstanding the vigorous and continued attacks from all quarters, M. de Villele is still firm in his place, nor does his influence appear to be in the slightest manner diminished by this universal hostility. Since the restoration there has certainly been no minister who has so firmly cast anchor in the haven of power. One almost might say that M. de Villele has taken root in the government. This strength of position is not inexplicable—indeed the cause is at present no secret; for it appears that such is the state of the finances and their administration, that M. de Villele is the only man who has got the clue of the labyrinth, or can guide the fortune of the state with safety through it. He has so arranged and combined, or rather complicated matters, that his successor, whoever he might be would necessarily find himself in the utmost perplexity and embarrasment; hence the danger which prevents (strong though the wish may be) his being replaced. In a word, M. de Villele having played his cards so well, has rendered himself indispensable. He remains minister in spite of the king and Dauphin, who would willingly remove him, but that they feel the impossibility of finding an efficient successor at the present moment; and, therefore, in maintaining him in power, they yield to inevitable necessity. This position is a strange and novel one and probably without a precedent in ministerial annals. The ensuing session, so far from shaking M. de Villele's stability, will only render it more sure. The majority of the chamber of deputies is already for him, and he will conciliate more and more their good graces by certain concessions, and particularly by his introduction of a law for indemnifying the emigrants. Besides, the members of that chamber are not unaware that the fall of M de Villele would, in all probability, be quickly followed by a dissolution of the chamber; they therefore feel that their political existence depends upon that of the minister. This is another of the immense advantages of the position in which this skilful diplomatist has had the art of placing himself. As to Messrs. Corbiere and Peyronnet, they hold by a very slender tenure indeed Hitherto M. de Villele has held them up, but let him withdraw his hand but for a moment, and they fall to rise no more—and this he will do the moment his interest requires it. In sacrificing them, he will have the merit of yielding either to the wishes of the king, the dauphin, or to some influential party of the court, and their unceremonious dismissal may in a moment of crisis, serve to avert the danger from the president himself. M. de Villele will make the same use of them as Alcibiades did of his dog's tail, and the modern Athenians (as the Parisians love to call themselves) will let the president pursue his own plans, and occupy themselves for the moment in wondering at the lopping-off of Messrs. Corbiere and Peyronnet. In the chamber of deputies these two ministers are looked upon with no sort of interest; they are absolute cyphers there, with regard to any kind of influence, and it would not be incorrect to say that their removal would be hailed with satisfaction by the majority of the members, with whom they are any thing but favourites, from their repulsive manners and the mediocrity of their talents as public speakers. The speedy fall of these two excellencies may then be looked upon as not improbable: The most dangerous rock M. de Villele has to fear in his ministerial course is the chamber of peers, in which his inveterate enemy, Chateaubriand, enjoys considerable influence. His projects will there most likely meet with some powerful obstacles. With a view to obviate which a new nomination of peers is already talked of, who, of course, as in gratitude, if not in duty, bound, would reinforce the ministeral ranks. But this is a violent remedy, and does not always produce the effect desired. It may serve to detach from the ministeral branches many who place above all other considerations the dignity of the peerage, and who would necesarily feel indignant at seeing it debased by promotions whose sole motives were the necessities or caprices of a minister. However, there appears to be no other means left to M. de Villele to counteract that spirit of opposition which seems to reign in the chamber of peers. The new hotel, or rather palace, occupied by the president of the council in the Rue Rivoli, is in a style of the utmost magnificence. The minister is there environed by a sumptuousness and an eclat more fitting the state of a monarch than a minister; so that when the duchess of Berri had traversed these vast apartments, and had recovered from the admiration excited by the splendour and richness of the furniture, she exclaimed to those near her, with a *naivete*, mingled with a little justifiable malice, "*Ma foi! ce n'est pas aussi beau chez moi.*" This superb hotel has been the town talk here for the last fortnight. There is a grand stair-case for Monsieur le Comte to go up, and another grand stair-case for Madame la Comptesse to come down with all other "appliances to boot," in an equally *grandisse* style.

General Assembly.

REPORT

Of a Committee of the General Assembly of Kentucky, in relation to the decision of the Court of Appeals upon the Replevin Laws, &c.

The joint committee raised upon that part of the Governor's communication which relates to the official conduct of the Judges of the Court of Appeals, have had that subject under consideration, and beg leave to report: That the judges of that court, at their last fall term, pronounced a decision in the cases of *Blair vs. Williams*, and *Lansley vs. Brashear*, annulling, in effect, the laws of this state in relation to replevin bonds, to the valuation of property subject to sale under execution, to the sale of property under execution upon a limited credit, and even to the occupying claimant of land, and circumscribing, by the reasoning which it employs, and in the principles which it attempts to establish, the legislative power of the government within a compass too narrow to be exercised usefully or beneficially to the community. The encroachment made by that opinion, upon the constitutional and legislative powers of the legislative department, and upon the great principles of self-government by the people, in the exercise, by that department, of its appropriate powers, and the afflicting degree in which it was calculated to disorder the social relations throughout the community, could not, and did not, escape the discernment and vigalance of our late excellent and patriotic chief magistrate, General John Adair.—In his communication to the legislature, at the last session of that body, he invited their attention to the import of that decision. The committee to whom that part of his communication was referred, made a report sanctioning the decision, and asserting the right of the judicial, to *check and control* the legislative department in the exercise of its legislative powers. The legislature, by appropriate preamble and resolutions, repelled the doctrine of the report, asserted the error of the principles of the opinion, and affirmance of their sentiment, superadded a contrary enactment, entitled "an act to regulate the issuing of executions," approved January 4, 1824. Thus an issue was directly formed between the two departments, and referred to the people, that august and paramount tribunal, from whose appeal there can be no decision by either party. They, it is believed, have made up their verdict, and it remains that their representatives should, at the present session, give it effect, and enrol it in the archives of state. Their opinion is not the effervescence of popular excitement, it is the result of a deliberation, calm and dispassionate in a degree proportioned to the magnitude and importance of the question, viewed in all its aspects. They have not, it is humbly conceived, in the consideration of this matter, been either ignorant or regardless of the boundaries which limit the rights and duties of the contending departments; nor have they overlooked the great political principles with which those rights and duties are respectively connected, and upon a just observance of which, by each, the welfare and repose of society essentially depend. They have not been convinced by reflection, nor seduced or derided into the belief that the judiciary possesses the *right*, by the constitution of the state, or upon the natural and acknowledged principles of fitness, upon which all free governments are based, to check and control the legislative department in the exercise of its power.

It is a principle of axiomatic character, that in every government there must exist a controling and paramount power, competent to all the purposes of government, that to this, all other lodgements of power must be subordinate and amenable. It is a principle not less obviously clear that in *free* governments *that power is inherent in the will of the people*, and that in such governments *the will of the people is the sovereign power of the state*. It is also equally obvious, that that power is the result of the social compact; that from that compact, as from its natural *radix*, flow all obligations of a political and legal character; and that the obligation of the social compact, upon all the members of civil society, results from their having each freely assented to it; and hence it follows, as a clear and self-evident principle, that all obligation amongst men results from the exercise of volition, express or implied. Volition is the elementary and primary ingredient in obligation. But the social compact and the constitution are not, as some have urged, one and the same thing. They are distinct and essentially different things. By the social compact, the members of it agree to live together in a state of civil society, and for the protection of their rights, their property and their persons, to submit them all to the regulation and the entire control of the *will* of the *society*. When this compact is formed, the society becomes thereby a corporate existence, a moral agent, and is invested with all the attributes and faculties of moral agency; it is an entirety; it thinks, reflects, reasons, wills and acts. The earliest employment of its faculties, is in the organization of its government. It delineates, in its constitution, the form of the government of its choice. But unanimity is not, as it was in the formation of the compact, necessary to the validity and obligatory effect of the constitution. It was settled by the compact that the will of the majority should govern. That is the only rational exposition of it, as to that matter.—The majority were, therefore, competent to the formation of the constitution. The constitution may be altered, amended or abolished, without throwing society back into a state of nature, or at all imparing its corporate existence or moral agency, or even essentially endangering its liberty: for its liberty must, in every posture in which it can place itself, depend upon its *will*, and that will must, according to the inherent laws, both of matter and of mind, display itself in its preponderance. Neither the compact nor the constitution contains any stipulation for a minority, or a majority, as such, or for the component parts of either, in their minority or majority characters. The members of each stand bound to abide by the general will which, except in a few cases otherwise provided for in the constitution must be promulged whether in giving form to the government or in the enaction of laws, through the medium of the majority. All that is said, therefore, about the rights of the minorities, is incompatible with the very nature of civil society. Every just conception of the social compact, and of the constitution, forbids the idea, and every proposition in relation to the rights of a minority as a dissentient portion of the community, is a solecism in politics, of the most palpable kind.

The rights of each member of society must, from the nature of government, depend upon the *will* of all, and that will must be displayed by the agency or expression of the majority. The rights of all are equal, homogeneous and correlative, and depend alike upon the general *will*.—The majority is the channel through which the stream of that will must, to be efficient, flow. The minority is the divergent tendency of a portion of its volume, which, by meeting with resistance in its lateral direction, forms a temporary eddy, and again disappears by its confluence with the general stream. The presumption is, always, that the minority is wrong; and the only right which it has, is to escape from that imputation by endeavouring to become, through its enlargement the majority, and in its success, to lose, with its existence, its right.

It has been said, that the will of the people, in civil society, constitutes the sovereignty of the state; that sovereignty, is essentially a *moral force*, of unlimited extent, and in its elementary state, consisted in the will of each individual member of society, inferior to the social compact; for man is social, and lived in society even in a state of nature The compact gives rise, not to society, but to the corporate agent, the moral personage called *civil society*. In civil society, each of its members exerts a double will, the one as a commoner of nature, the other as a member of the corporate body. The first is erratic, impulsive and selfish; the other is social, or rather political, and its state of confluence with the like will of the other members, is, like that of those with which it is associated, pure, enlightened and disinterested. It is this confluent will which gives form to the government and law to the community; which displays its power in the constitution, and the code which controls, retains and regulates the selfish will of individuals It possesses all the attributes of supremacy, and is, in every state of civil society, the unerring arbiter and uncontrolled sovereign of the state. It is this will, and this alone, which imposes in the constitution the only *check* upon legislation which it can recognize, or to which it can submit. Any check or control of the legislative power from any other quarter, or of any other kind, is neither more nor less than *tyranny*.

The limits prescribed in the constitution to the legislative power, are but the modes in which the sovereign has ordained that that power shall be exerted; for the ordination of fundamental rules, and the enaction of laws, are alike the exercise of the sovereign power. It is from that consideration, that both the constitution and the code derive their authority. The settled cannons of our political rights and of sovereign agency, are proclaimed in the constitution. For our civil rights we examine the code The legislature, in supplying the code, display the will of the people, limited only by their own pre-ordinations in the constitution, and that government only is free, which knows no restraint upon the legislative faculties, which was not imposed by itself in its organization; and among free governments, that is *freest* in which no restraint upon its legislative power is to be found in its constitution, which is not essentially necessary to its existence and well-being. It is by legislation only that an organized government can express its *will*, and as the freedom of an individual is diminished or extinguished by the partial or total control of his will, so is the freedom of government diminished or extinguished by the partial or total control of the legislative power. Any people, therefore, which imposes in its constitution a restraint upon the exercise of the legislative power, not necessary to the well-being of the government, so far uselessly diminishes its liberty; for, as in the animal body the exercise of voluntary action is limited only by that mechanical action of the vital organs, which is necessary to the circulation of the fluids, upon which life depends; so, in the body politic; the power of legislation should be limited by that display only of *fixed will* in the constitution, which is necessary to its living and healthful state.

But it is urged, that the representatives of the people may err in the enaction of laws, and that therefore, the exercise of legislative power should be subject to the check and control of the judiciary Why should they be subject to the control of the judiciary, rather than of the people, the only and legitimate sovereign! May not the judiciary err also, in the exercise of the controlling power! Are they less liable to err than the legislature! But would not the skein of legislative power be strangely striped, if the control of the legislature were taken from the people, to whom its members are immediately and directly responsible, and transferred to the judges, to whom they bear no responsible relation! And is it not strange that the power to control the legislature should be ascribed to the judges, who are themselves, immediately responsible to that body, as the organ of the people! But in controlling the only organ by which the people can express their will, would not the judges control the people themselves! But the necessity of the control of the legislative power by the judiciary, is not perceived. Does either reason or the experience of governments, sanction it! It is believed not. The most solemn and eventful display of the legislative power which can be made by any people, is made in the organization of their government, in the formation of their constitution; and yet, so far from their being availed in that interesting process, of the controlling wisdom of the judiciary, the judges are, by it, then only for the first time, brought into existence, and that only in contemplation. It is reserved by that instrument, for the legislature, the very body whom they assert the right to control, to create them, and prescribe their duties: and it would seem, that if the people were wise and virtuous enough to be trusted with the organization of the government, and with the specification and recognition in the constitution, of their great and essential rights, they ought to be supposed to be wise enough to enact laws for its administration—the latter as well without the control of the judiciary as the former. The same people that formed the constitution, enact the laws; and if they were equal to the former, they ought not to be supposed to be incompetent to the latter. Judicial control cannot be more necessary in the performance of the latter, than of the former; but the people, it is admitted, are sovereign, and the legislature is the only organ by which they can express their *will*. The control, then, of that only organ, is to control the people. But they cease to be sovereign when they are controled, and the judges who control them become the sovereign. This theory then, of judicial control, eventuates in a curious spectacle—the creature controling the creator—the subject, their sovereign; for the people, through their legislative organs, created the judges—

Again; it is certainly more rational to leave the control of the legislative power where reason and the constitution seemed to have placed it, in the annual and direct responsibility of the representatives of the people, than to concede it to the judges. The concession would imply a surrender by the people of the governing power to the appellate court; for it is by legislation only, that the governing will of the people is displayed That is essentially their mode as they have ordained it in the constitution, of governing themselves. But why is it urged that the surrender should be made to three? Why not to one! Is not the reasoning in favor of the control of the power of legislation by the *three*, as much stronger in favor of the control of the people by one, than of their self control, as three is numerically nearer to *one* than to half a million? If the judges possessed the purity and wisdom of archangels, it would be unwise to concede to them the power contended for, unless they were also immortal; for however wisely and beneficently they might exercise it, their successors might exercise it, wickedly and oppressively Besides, if the principle were once conceded, some ambitious aspirant might relieve them of the trouble of exerting the ruling power, and take it with the entirety of legislation into his own hands.

Again; it is said that the judiciary is the weakest department in the government, and that there is no security against the injurious exercise of the controling power asserted for the judges, in its weakness. If the judiciary were really weaker than the legislative department, then would the doctrine of their right to control the exercise of the legislative power, be as absurd on philosophic, as it is erroneous on political principles. It would be to assert that the *minor* could control the *major*. But is the judicial really the weakest department of the government of Kentucky! The extent of the jurisdiction of the appellate judges, their tenure of office for life, and the exemption which their decisions enjoy from revision, reversal or control, would seem to indicate great strength in that department They have society in their power, by having the dearest interests of every one of its members liable to be drawn into contest before them, and decided irreversably by them. The extent and character of their jurisdiction, is calculated to impress awe upon all, and to excite by its perversion, the sympathy of but few. The worst decision, where individual interests only are involved, can affect afflictingly but one of the parties. The sufferer experiences the condolence and sympathy of his immediate connexions, and friends only, and they form but one inconsiderable portion of society; and even they may be constrained to be silent lest by awaking the resentment of the judges, they should in time experience the like fate. It is only when, as in the cases above alluded to, the judges attempt to fasten upon society, principles incompatible with its fundamental rights, and to prostrate the remedial system, upon which its interests and its tranquility, repose, that public attention can be awakened to judicial usurpation and frailty; and even then, the strength of the department is displayed in the almost inaccessible posture of its incumbents. That the judicial department is in its political organization weaker than the legislative department, it is no less the felicity than the pride of the people of Kentucky to know and believe. Hence it is believed that it was not the intention of the people that the latter should be controled by the former. But that it is strong, adventitiously, at least, is evinced in the effort made, as well by its incumbents as others, to sustain the obnoxious decisions alluded to, and to prostrate the remedial system of the state.

Those who acknowledge the right of the people to govern themselves, and their power to do so is supreme, and consists in their will, usually display a seeming reverence at least for their supremacy. What but an illusive consciousness of their strength could have restrained the appellate judges from usurping so!—There is a majesty in public *will*, which it requires great confidence to defy; there is a force in it which it requires great strength to resist. The constitution forms the only limit to its power; and it remains to be seen, whether it has furnished to the appellate judges a posture of exemption from the arbitrament of public sentiment.

But may it not be confidently asserted, that the people in the construction of the legislature department, interwove in its machinery, by constitutional provisions, the only checking and controling powers to which they intended to subject it!—That department consists, according to the constitution, of the house of representatives, the senate, the lieutenant governor and governor. The members of the first are elected annually, and serve one year only; those of the second are elected for, and serve four years, and one fourth of them are moreover elected annually, The lieut governor and governor, are each elected for four years. The members of the house of representatives must have arrived at the age of twenty-four years; those of the senate at the age of thirty five, before they become eligible to their respective branches No person, while he continues to exercise the functions of a clergyman, can be elected to a seat in either house. No person who shall have been either a principal or deputy collector of taxes, can be elected until he shall have paid into the treasury all arrears, and obtained from that department a quietus. There are superadded also qualifications as to residence of the members of both

bodies, and of the Governor and Lieutenant Governor. Both branches shall keep journals of their proceedings, and any two members of either branch may, by calling for the yeas and nays have the vote of the house recorded on the journals. The journals shall, moreover, be published weekly. The lieutenant Governor shall preside in the senate, and maintain order in that body, and in case of a division, give the casting vote. The Governor shall approve and sign every bill, or send it back to the branch in which it originated, with his written reasons for withholding his signature Those reasons are to be spread upon the journals, and the vote is then to be taken upon it by ayes and nays; in which case it requires a majority of all the members elected to both houses to give it the force of a law, against his *veto*. Whence all this particularity, this almost redundant caution in the process of legislation? Not, surely, with an eye to judicial control. Whence, but to permit those only to be employed in it, who were most capable of it, and to subject them, while engaged in it, to a strong conciousness of their responsibility to the people, and thereby to secure them against the indulgence of any erroneous, selfish, or corrupt impulses whatever; to filtrate and clarify the stream of the people's *will*, from the impurities with which it might be tainted, by the channels through which it had to flow, before it could be chrystalized into *law*? The members of the lower house are to be elected annually, that they may go into session with a knowledge of the wants of the people, and of their will in relation to those wants, fresh in their minds. They are elected *but* for a short time, lest they should pervert or disobey that *will*; lest by mistaking the impulses of a portion, for the will of the whole people, they might inflict *lasting ills* upon the community.— The period of their services is short, that their responsibility may be the more direct, and their conciousness of it the more vivid; that the ills inflicted by their errors, might be the more speedily corrected by their successors. The members of the senate are elected for four years, for the purpose of checking and controling any feverish, impulsive, or tumultuary tendency which might be displayed on the part of the immediate representatives of the people; while the latter, in truth were intended to check and control any aristocratic direction which that body might, owing to its more remote and less responsible posture, be disposed to take. The Governor's limited legislative power was superadded, as a check upon both, in the maintenance of that equipoise between them, in the exercise of their respective powers, which would be alike remote from democratic anarchy and aristocracy. The term of his service, his incapacity for immediate re-election, and his remote exemption from the power of either branch, qualified him admirably to the exercise of a limited control over both.— To all these cautionary provisions, there is superadded in the constitution, the provision that every bill, order or resolution, before it can have effect of a law must be read and free discussion had thereon, on three several days, in each house, unless four fifths of the members shall dispense with the rule. Surely if one hundred members of the house of representatives, the thirty eight of the senate, the Lieut. Governor and the Governor, possessing the qualifications, occupying the postures, and performing the duties prescribed to them in the constitution, cannot, in the exercise of the legislative power, secure the confidence and promote the comfort of society, that great object cannot be accomplished by superadding the control of the *three judges*.

But is there any peculiar or intrinsic fitness in the judicial department, for the control of the legislature? Are they less frail and more inaccessible to the impurities which might taint the stream of public will, in their meanderings thro' the channels of the legislative process, and their more [illegible] meanderings throughout society? The judges, appellate and subordinate, form a distinct official corps. They are, by their official situation, apart from the great body of the people to a certain extent. Their number is comparatively small; their power as has been shewn, necessarily great. Their duties lead them to an intercommunion with each other, and with a few in society, (rather than with the people,) who by their wealth as they by their salaries, are exempt from the usual employments of common life and the consequent cares and inquietudes which are inseparable from the condition of the great mass of *mankind*; and it is this common condition of mankind which feeds the remedial energies of government, and must always invoke them when they are needed. Habitudes of [illegible] peculiar to the posture [illegible] which the judges occupy, are [illegible]; and [illegible] to be sufficiently [illegible] with their condition and their [illegible] either the legislative [illegible] to check and control its exercise.

But what ought, it is believed, to be decisive upon this subject, is, that both the departments are destitute of political power, farther than they derive it from the people, the acknowledged source of all the power belonging to civil society. They are but functionaries; the one to promulge the will of the people, and the other to carry it into effect. The will expressed by the one, is the rule of the official conduct and duties of the other. But if the latter could control the former, in the exercise of its legislative powers, then it could, by that control, regulate its own conduct and duties, by its own *will*, thereby uniting in itself, the legislative with the judicial power, contrary to the spirit and letter of the constitution For, to control the will of any agent, is to deny to it the power of action, in any other mode, than according to the will of the controling *power*. So the power asserted for the judiciary is, in effect, the power to control the people. It is the ascription to them, of the paramount and sovereign power of the state.

This the people cannot consent. They acknowledge it to be the duty of judges to determine upon the validity of any law, when its constitutionality shall be drawn into contest, before them in any cause which it becomes their duty to decide. Their power to do this is incidental to their judicial duty, and must be exerted under their own responsibility to the people, through their representatives. The law was enacted by those representatives under a direct responsibility to the people. The decision of the people in relation to their responsibility, should be a law effectual, and be acquiesced in by the members of both departments. It ill become the members of either, to question the power, or to distrust the integrity, or intelligence of the people; for when the competency of the people to govern themselves is acknowledged, there is in the acknowledgment conceded to them, the intelligence, the virtue, and the power necessary to all the purposes of self government, the concession of the means. A law, therefore, declared by the judges to be unconstitutional and void be obviously and palpably so, that the people when their attention was drawn to the subject by the decision, whould perceive at once, that their representatives had erred in its enactien, and sanction the declaration of its validity by the judges.

The people have no motive, they can have none, to take part with the members of either department, unjustly or injuriously to those of the other. Their object is, and must necessarily be, the promotion of the general welfare. They cannot conceive, or connive at any error or obliquity in either department, which threatens to contravene or thwart that great object. The general welfare consists in the enjoyment of his rights, political and civil, and the performance of his duties, by every member in the community. Political rights are seldom violated by individual aggression: and when individual rights are assailed by individual outrage, reparation is speedily awarded, while justice regards the public will as the criterion of her awards. It is, as history and observation prove, from the *official ranks* that danger to the political and civil rights of society is to be apprehended. It is under the mask of the exercise of official duty, that oppression is inflicted upon individuals, and fastened upon states. The vigilence of society should therefore, be always awake to danger.

Power of every kind should be watched by a free people, with a zeal proportioned to their regard for their freedom.

But executive power installed for life, as in the judiciary, should be the subject of *jealous vigilence*; and that vigilence should be displayed more especially in the enaction of its execution laws It is the practical operation of these laws that forms the points of sensative contact, between the force of public will and the sensation of the individual members of the community. It is at this point, that official malversation inflicts great agony upon society. This is the point at which legislative enactments should limit official discretion; and this is the point also at which the sensation of society pays the greatest homage to legislative wisdom and power. For when the sheriff or marshal seizes the property of an individual and bears it off, nothing but the authority under which he professes to act distinguishes him from a robber or a tyrant. But the knowledge of the proprietor, that he is an officer, and that his property is in the custody, not of the individual, but of the law, to be dealt with not according to the discretion of the man, but to the will of the community, reconciles him to the measure, and tranquilizes his mind The conciousness that the laws under which the seizure was made, were enacted by the people, and that while they proclaim the liability of his property to seizure, they limit and define the authority, and prescribe the duties of the officers in relation to it, has a mighty influence in winning his quiet acquiescence The nature of the duties, therefore of the ministerial officers of justice, and the relations into which they are thrown in the performance of those duties, render it peculiarly proper as well in relation to the security of individuals from oppression, as in relation to the tranquility of society and the authority of the government, that those duties and relations should not be left to judicial or ministerial discretion, but be defined by legislative enactments,

That such was the intention of the people, is evinced by their constitution. There is no form given in that instrument in which an execution shall be made out. It designates no period at which it shall be issued, or within which, after it shall have issued, it shall be levied and returned. It is entirely silent as to the mode of proceeding in civil cases. Nothing is said about the writ, original, intermediate process, or writ final. It enjoins, in the thirteenth section of the tenth article, that "all courts shall be open, and every person, for an injury done him in his lands, goods, person or reputation, shall have *remedy* by the *due course of the law*, and right and justice administered without sale, denial or delay." But it furnishes no *code of "law"* by the "*due course*," of which justice is to be administered. It is not to be administered according to the discretion of the judges: it is to be administered by the courts, "without *sale denial or delay, according to the due course of law*," and as the 'law' by the "*due course*" of which it is to be administered, is not to be found in the constitution, it must be looked for in the statute book. Not having been ordained by the people in their constitution, they must furnish it by their legislative enactments, or the judges must furnish it. But it is not pretended that the judges can enact laws, whereby to administer justice. They are to *administer justice according to law*, not to make laws. The legislature, then, are to enact the laws by the course of which justice is to be administered by the courts. Now, in furnishing the kinds of execution and prescribing the *mode* by which, and the time within which, they should be executed and returned by the ministerial officers, the legislature were left by the constitution to *the free exercise of their discretion subject to the control of the people only*.

But it is alledged that the clause of the constitution of the U. States, which provides that "no state shall pass any *ex post facto law*, or law impairing the obligation of contracts" prohibits the legislature from exercising its discretion as to the time within which an execution shall be levied and returned. Those who urge that sentiment must insist that every execution shall be levied and returned in the shortest possible time, and that the courts shall, in every instance, determine, from the circumstances of the case, what is that *shortest time*. But the fifth amendment to the constitution, provides, that no person shall be deprived of his life, or liberty, or property, without "*due process of law*." But an execution deprives the defendant of his property. It must therefore be a "*process*" formed and regulated by "*laws*;" so that both constitutions alike prohibit the judges from administering justice according to their discretion or to any other criterion than law

But if an execution must be issued, levied and returned, in the shortest possible time, in every instance, then the mode of proceeding on the part of the ministerial officers, cannot be prescribed by the legislature, and the administration of justice cannot take place according to law, as prescribed by both constitutions. The discretion of the judges, exercised upon the circumstances and situation of the parties, and their proximity to, or remoteness from the office whence the execution emenates, must determine the time and furnish the rule in each particular case. The same discretion must be exercised in ascertaining whether the officer has performed his duty with the requisite despatch; and what is worse, this discretion must, in every instance, be exercised retractively, to furnish the law of proceeding in each. Can any thing more tyrannical be conceived of? Upon this hypothesis, the rights of the people would be subjected, in the first instance to the discretion of the sheriff or his deputy, and in the last to that of the courts. *Discretion*, when exercised by the appropriate department, under the appropriate responsibility to the people, in the enaction of laws in relation to this subject is the process by which a free people regulate their own concers; exercised by any other description of magistracy, it is tyranny, and the people who acquiesce in its exercise, *cease to be free*.

(*To be concluded next week.*)

Communications.

EXAMINER NO 2.

COURT OF APPEALS.

In the last Gazette I attempted a succinct enquiry in the legality of the late measure of the Kentucky Legislature in relation to the court of appeals. I called the attention of the public to the three sections of the constitution exclusively relating to the judiciary. The first vests the judicial power in one supreme court and such inferior courts as the general assembly, may from time to time establish. The second provides that the court of appeals shall have appellate jurisdiction coextensive with the state, under such instructions and regulations as may from time to time be prescribed by law. And the third declares that the term of office shall be during good behaviour yet subjecting judges to a removal from office on the address of two thirds of the members of both houses on setting forth the cause. From these clauses I drew the inference that the sovereign power of the representatives of the people was unlimited except in a manner specified in the constitution. That tho there could be established but one supreme court yet there might be an augmentation or demunition of the number of Judges; that one or more judges could be assigned to that court exclusively, or the circuit Judges might be directed to hold it, or any other regulations made that should be thought necessary by a majority of the legislature. But where a judge was removed for misconduct on specified charges a concurrence of two thirds of the members was necessary which however must not prevent the discharge of judicial officers on the discontinuance of the court, by the act of a bare majority I will now offer some further suggestions on the subject. Each successive generation is entitled to equal liberty, with those which preceded it, under one constitution; whatever privileges our predecessors were entitled to, we also have a right to enjoy, and in like manner our political franchises pass unimpaired to our successors. If those who performed the office of Legislation, immediately after the adoption of the constitution could exercise the priviledge of forming regulations for the organization of the judiciary, that invaluable right seems in like manner extended to us by the second section of the constitution refered to, which expressly provides that the court of appeals, shall be subject to such restrictions and regulations as may from time to time be prescribed by law.

This power either expressed or implied is indispensible to the good government of the community. If the judicial system once organised could never be changed, only those who framed the first statute on the subject would enjoy the freedom of choice in the character and organization of judicial tribunals. Such never could have been the intention of the framers of the constitutien, nor is it to be fairly inferred from the instrument itself. The rational construction of the prevision in question is that the general assembly has the right to legislate on the subject from time te time, adopting such regulations as experience may point out as useful, enlarging or deminishing the number of Judges increasing or lessening the number of terms, or repealing the whole law, and commencing a new If those who went before us had a right to enact a law, we now have the right to repeal it; as our political rights and powers are as great as theirs were. Hence I have presumed that if the last legislature had thought it unnecessary to retain a corps of Judges, exclusively for the purpose of discharging the duties of the supreme court, the law directing the appointment of Judges of that court might have been repealed, and the circuit judges directed to hold an appellate court as is now done by the circuit judges, of the United States.

Conformably to this idea, the judicial system of Kentucky has undergone successive changes the quarter, session gave place to the District Courts, which were in their turn swept away by the voice of the people through their representatives and the circuit courts established; & again by the same voice, at the last session the supreme court was dissolved and another created. In like manner under the constitution of the United States which is similar in some of its provisions on this subject to that of Kentucky, an act of Congress reorganizing the United States circuit court, augmenting the number of Judges; was passed, and at the following session, that act was repealed and the judges dismissed

Thus far I have reason to show that the same construction of the constitution and usage under it, authorise legislative changes in the judiciary: and that it never could have been contemplated that the laws on this subject were unalterable. I will now advert to another clause of the constitution which shows that this also was the opinion of the members of the convention. That body having provided for the several departments of government; giving to the legislature the power to enact all laws necessary for the good government of the commonwealth, and provided that judicial officers should hold their office during good behaviour; in taking a retrospect of what they had done, and being aware that legislative alterations would be made in the laws relative to the courts, that one court, might be abolished and another established, and the judges who were thus discarded perhaps might contend that altho the office itself was extinct yet that they were still in office being appointed during good behaviour, the convention introduced into the constitution under the division of general provisions the following section.

Sec. 12. The Attorney General and other attorneys for this commonwealth who receive fixed annual salaries from the public treasury, Judges and clerks of courts &c. (naming other officers) shall hold their offices during good behaviour and *the continuance of their respective courts* under the exceptions contained in this constitution.

This section evidently shows what were the views of the members of the convention on this subject it proves that judges shall hold their offices during good behaviour and the continuance of their respective courts. Then if the court ceases to exist, the judge goes out of office altho his behaviour is unexceptionable. How can a court cease to exist? There is but one way that I am aware of: that is by the repeal of the law establishing it. Then the true meaning of the constitution seems to be that judges continue in office until they misbehave or until the law establishing the court which they preside in is repealed. On the present occasion one of the contingences has happened, the law establishing the court has been regularly repealed and the court discontinued; consequently the judges no longer hold their places, and what is a little remarkable the very state of things which the convention seemed to have anticipated and intended to prevent by the 12th section has occurred; the three judges discharged from office by the discontinuance of the court contend that being commissioned during good behaviour, and having been guilty of no fault as they believe, claim to be still in office. The obvious impropriety of this is striking to all dispassionate persons who read the provisions of the constitution on the subject, and to such it becomes manifest that this opinion of the ex-judges is at war with the spirit of a republican government. In this free land the will of the people is sovereign, that will is indicated by the majority of voices expressed by the representatives of the people. The people can make and unmake courts at pleasure; they appoint persons to administer the government and have agreed upon a plan for that purpose which is denominated the constitution. In this instrument the people have reserved the right by their delegates to alter, abolish and remove their judicial tribunal. And when they declare by a majority of their representatives that a particular court shall be discontinued, and its officers and their assistants persist in opposing the measure; it is saying that a majority, must submit to be controled by the minority a proposition sapping the foundation of political liberty.

From the view of the subject which I have taken, it appears that the Legislature, in the exercise of its legitimate powers has repealed the law establishing the court of appeals, whereby the court has ceased to exist and the late judges no longer hold their former official stations, as they only held their places during the continuance of the courts to which they belong. And notwithstanding that this repeal or dissolution of the courts was by a bare majority, yet it is constitutionally done in as much as two thirds are only required when the judges are removed on account of the other contingency, that is for misbehaviour: and as in this case no charge is exhibited against the judges and no application is made to remove them but the office is extinguished a bare majority was all that was necessary.

But it is said that though the letter of the constitution has not been violated the spirit has; that the object was to *break* the judges and not to amend the laws; that though the representatives of the people had the right to repeal the law and thus dissolve the court, yet as it was done alone, to get rid of disagreeable judges it was unlawful. As the members of the legislature were exclusively vested with the power to decide on the expediency of the measures; it may be asked before what tribunal can their motives be enquired into and revised. The answer is the bar of the sovereign people. Be it so: to an overwhelming majority of the people, the ex-judges were offensive; at least such an inference may be drawn by the result of the elections last August; and the representatives of the people in accordance with the wishes of their constituents have by a change in the judiciary which they had a right to make, discarded their offensive judges. Then will the people censure their representatives for doing that which they themselves desired! Little apprehension need be entertained whatever the motives of the legislature may have been, so they kept within their legitimate powers. But this scrutiny of motives is an ignis fatuous, it is a Jack with a lantern that leads into the quicksands and mire of contention and abuse. It is enough that the general assembly have proceded accordant to their constitutional powers; what remains is to discover by the lamp of experience, whether wisely, or otherwise. If on trial it become apparent that the new court does not in its decissions equal the high expectations that are entertained of it, dissolve that tribunal also, and adopt some other measure promising more beneficial results. It is great folly for the citizens of the commonwealth to divide into parties, arraying themselves under the standard of the different courts and criminating and re-criminating each other. We should recollect that these several sets of judges are mere political puppets and that the people are the masters of the show and work the wires We do not belong to them but they to us and we should not disturb our own quiet on their account.

TO THE EDITOR OF THE KENTUCKY GAZETTE

Dear Sir,

That two writers should contradict each other positively in relation to the same fact, and both be correct in their statements, is no common event. Yet that such an event may occur, is demonstrated by an article, headed "MEDICAL" and signed W. which appeared in the Gazette of the 10th instant. The article relates to the *Lithotomic* operation of Mons. Civiale of Paris.

A writer in the Nashville Whig, of the 11th ultimo, had asserted, that the late Dr. Darwin had described and recommended this operation nearly thirty years ago, and hence preferred against Mons. Civiale the charge of plagiarism.

The truth of this assertion and consequently, the validity of the charge, your correspondent W positively denies, and to sustain himself and affix error on his antagonist, quotes what he declares to be "all that Darwin says about any *instrumental* operation for the disease." (Stone in the bladder.)

The misunderstanding between these two writers may be explained with great ease, and in a way perfectly consistent with the veracity and medical information of both.

Dr. Darwin published, during his lifetime, *two* editions of his Zoonomia The *first* contains no account of the *stone quarrying* operation, which constitutes, at present, so prevalent a topic of medical conversation—a topic, about which *so much* is confidently said, and *so little* really known. This is the edition which must have been consulted by your correspondent W.

The *second*, which would seem to be that that has been read by the writer of Nashville, and which may be referred to by any one, in the medical library of Transylvania University, contains a very accurate account of the operation, *i. e.* of the apparatus and the way in which such an operation *may* be performed, as satisfactorily appears from the following extract:

"A curious account is given in a letter to Sir John Sinclair from Colonel Martin: who asserts, that after using bougies and injections into the bladder, the passage of the urethra became less sensible to pain, and he was enabled to introduce small files (I suppose with their backs smooth:) and by these he gradually filed away the stone, as it lay in the neck of the bladder. When the stone did not properly present itself, he introduced warm water by injection into the bladder and thus again endeavouring to discharge it, brought forward the stone to the neck of it He used the file three times in twenty-four hours, from April till October. Medical Journal, No. II. p. 121.

"If this process should be again attempted, perhaps the file might be introduced through a flexible canula, with a metalic hood at the external end of the canula to cover the back of the file, so as to prevent the friction of it against the urethra, or neck of the bladder. If the urethra, by frequent trials, should become so insensible as to admit easily the frequent introduction of the metalic canula, might not two fine steel wires, properly tempered, be joined at one end by a hinge, and thus introduced through the canula into the bladder; and when protruded beyond the extremity of the canula, they might open by their elasticity so as to receive the stone, and confine it against the canula, by retracting them? The proper direction of the wire-springs, so as to open when they are pushed through the canula, must be previously given them. If this could be managed, a small file or borer might at the same time be introduced through the canula, the handles of which might consist of joints to permit them to bend in all directions, and thus the stone might be broken to pieces by a few trials; or if the stone was soft or fragile, the retraction of the wire bow might divide it at every trial, till it became almost reduced to powder. A little mechanical ingenuity might be necessary in the construction and use of this machinery; but I believe it not to be impracticable, since I read the above account of Colonel Martin, though I had often before thought of it with despair of its successful application.', Zoonom. Vol. II. Class I. 1. 3. 10.

That Mons Civiale has ever read the preceding passage, the writer of this article neither affirms nor denies. Nor does he hazard any positive assertion respesting the fate of the lithotimic operation which that gentleman recommends. But in relation to both topics, he confesses frankly that he finds it difficult to banish suspicion and suppress doubt.

That Darwin's Zoonomia (*both editions*, as he firmly believes) is to be found in the public libraries of Paris, he knows to be true. If Mons Civiale, then, has not read it the fault is his own; for it is certainly accessible to him.

And as to the demolishing and extractive process recommended, the undersigned regrets to say, that it never has presented itself to him in an imposing form. He has not yet been able to regard it as a master operation for a formidable disease. He will not so far disparage the apparatus employed, as to call it a *gimcrack*; or to smile at it as the professional toy of the day. But he will say that his apprehension of its insufficiency overbalances his anticipation of its usefulness.

To find himself mistaken on this subject will be matter of rejoicing to him. For he is prepared to hail with sincerity and ardour, any new and effectual means to improve the art of healing, and to diminish the amount of human suffering.

One thing is certain The result of *calculation* is unfavourable to the Parisian operation Appearances are *discouraging*, at least, if they do not actually *condemn* it. Its sufficiency, then, can be established only by *experience*. But the experience of *Europe* has not yet established it: and that of the *United States*, as far as it has gone is directly against it Hence the caution with which it should be recommended by *Physicians of years*, experience and standing. And for young practitioners, in the present stage of the business, to hazard on the issue of it, either the lives of their patients, or their own reputations, would be highly imprudent.

Appearances, it is repeated, are *against* it. Besides being *necessarily* flimsey and fragile, the apparatus is exceedingly *difficult to manage*. To introduce it into the bladder, fit to each other its various parts, secure the stone in its grasp, where neither the eye nor the touch can give any assistance, and put the whole in operation, without endangering the safety of the patient, would seem to be a process requiring a greater amount of mechanical dexterity and address, than falls to the share of most operators. Nor is this all. When the difficulty of introducing and adjusting the apparatus shall have been overcome, a stone large and hard, more especially if it be somewhat smooth, is entirely beyond its powers either to *hold* or *destroy*. To secure even for a moment, especially under the action of a propulsive force, tending to make it escape, such a substance by such an apparatus, and in such a situation appears impracticable. The very attempt would seem chimerical.

To say the most of it, then, the success of Mons. Civiale's operation, should it succeed at all, must be on a very limited scale. In *male* subjects, the case must be *peculiar* and such, therefore, as does not

...ften occur, and the operator practice in manual dexterity. In common cases, and in the hands of [illegible] the experiment must fail. Such at least, are present probabilities.

Of its success in female subjects, the prospect is better. But even there, if the stone be hard are large and smooth, it must prove abortive. At all events under the *present* mode, the extraction of a stone from the female bladder, is a process comparatively safe and simple.

Should the urethra and bladder, as is often the case, be tender and irritable, or the stone encysted, an attempt to perform the Parisian operation must be necessarily injurious. Under such circumstances, to cut through the parts would seem less hazardous than to irritate them greatly by pressure and friction. The breaking of the apparatus *within* the bladder, and the leaving of a portion of it there, are always to be dreaded.

Added to other considerations, suppose the preliminary difficulties to be vanquished, and the stone broken to pieces, how is the operator to extract, *with certainty* all the fragments? or how know whether they are extracted? What will be the consequence of leaving in the bladder some of these fragments rendered *angular* and sharp by means of the operation? To say the least, they will constitute nuclei for other stones, if they do not give rise to fatal inflammation.

Such are some of the objections to the Parisian operation, which *common* reflection on the subject presents. Several others, which might be easily suggested, shall be waived for the present.

Your correspondent seems to regard as proof conclusive of the efficiency of the operation, the eulogistic approval of it by the Institute of France. In reply to this, he is requested to recollect, that testimony no less pointed, strong, and panegyrical was borne by the same body in behalf of the Experiments of Dr. Le Galtois. Yet that that testimony was borne *hastily* and on *no solid foundation*, is now admitted by all physiologists.

Nor is this the only high and confident *European* recommendation that has been found falacious in the *United States*. That of Digitalis in the cure of pulmonary consumption, of *eau medicinale* in the cure of gout, and of colocynth in the cure of palsy, are but a few of the many instances that might be cited to this effect.

With this the writer takes a kind and respectful leave of your correspondent, and hopes he has said nothing offensive or disagreeable to him. If he has it has been unintentional.

CONCILIATOR.

FOR THE KENTUCKY GAZETTE.

RUSSIA AND KENTUCKY HEMP.

Sir—

There has been a great number of pieces published about the management of hemp in Russia, in our papers and Almanacks. The methods therein described has been found not to answer in this country as few people have it in their power to water it. To supply a much better and more certain way has been discovered by Mr N Hart of this county, as published by him in the Kentucky Farmer last summer; which is simply to let it stand in stack until the 1st of December of the 2nd year, and then lay it down to rott in the common way, and when sufficiently rotted to take up it will be as white as any Russia hemp; and entirely free from the vegetable oil (colouring matter) and as capable of receiving tar as the other, and of course as fit for cables and cordage. If the hemp is stacked in round stacks in the common way, the roots will all rot off and save the trouble of chopping them off for the New Brake. If put up in stacks it will naturally incline out and save the root, in which case it will be necessary to cover the top with straw, corntops or boards. The hemp growers would certainly do well to try a part of their crops at least to convince themselves of the fact; of which however there can not remain a doubt, as trial has been made by several farmers in this county as well as myself. I will send you a sample the first safe opportunity or bring it the first time I go to Lexington. The stack which I tried was cultivated with the Russian hemp seed. I do not find it fairer than that raised from the common hemp treated in the same way.

If you think the above worth it, please give it an insertion.

Yours'

B. GAINES.

N. B. I inclose you a strip of the hemp.
Woodford county, Feb. 10, 1825.

DEAF AND DUMB ASYLUM

Congressional.

Mr Moore, of Kentucky from a Select Committee to whom was recommitted a bill for the benefit of the Deaf and Dumb Asylum of Kentucky, with instructions to inquire into the expediency of making provisions for the institution for teaching the deaf and dumb of New York, Pennsylvania and Detroit, made the following REPORT:

Your committee have given to the investigation of the subject the attention which its interests and importance demanded. It certainly addresses a commanding claim to the philanthropist and the patriot. No condition of our nature can be conceived more deplorable than that of an individual who, born unfurnished with the sense of hearing, fails to acquire the faculties of speech. Unable to receive or accomplish the transmission of thought, his intellectual being lies buried in darkness, incapable of expansion, creation, exercise or improvement. The cheerful and sympathetic voice of man he can neither hear nor articulate—music caresses his ear, and eloquence attempts his soul in vain—shaped after the image of his maker, with form erect, and "the sublime," endued with innumerable aptitudes for feeling, reflection, and society, he stands, "in cold obstruction" alone, in the midst of thousands, inert, unsocial, and joyless. But the same Divine Power that saw fit to imprint, upon a part of the moral creation, uncommon marks of imperfection has been pleased to permit the art of man to supply this defect of nature; to form new channels of thought; to explore new sources of language; and to bring up, to the surface of reason and enjoyment, that hapless portion of mankind who had drawn blanks in the lottery of life, and seemed destined for the condition of brute. And it is the happiness of the present age to contemplate, on both sides of the Atlantic in the instruction of the deaf and dumb, this triumph of science and benevolence over misfortune. That a public effort, in so just and so generous a cause, should have been made by the state of Kentucky, is a fact honourable to the spirit and intelligence of that commonwealth, and in the opinion of your committee, entitles her not only to the respect of her sister republics, but to the aid and patronage of the General Government. An institution for the instruction of the deaf and dumb was incorporated by the Legislature of the state of Kentucky in 1822, and, in the following year, was put in operation at Danville, a central point, combining as many advantages for the site of such an institution as any other point which could have been selected in the state. But the resources of the state, even when united with private donation, both of which have been liberally applied to this interesting object, are not equal to its philanthropy, or commensurate with the demand for this peculiar benefaction which the growing population of the western states presents to this the only institution of the kind in the entire valley of the Mississippi; it therefore becomes a national object, and is properly represented to Congress as such by the memorial of the superintending committee. The utmost extent of utility to which it could be carried by the private munificence and public patronage of Kentucky, it is probable would hardly suffice for the wants of her own people, as it appeared, about a year since, that 130 persons, in that state alone, needed this kind of instruction. And it is well known that, although her soil is rich, and her people generous, she is remote from market, and, in a great measure, destitute of commerce and active capital.

Your committee have ascertained that two institutions for the instruction of the deaf and dumb have been established, and are in successful operation in the great state of New York, and two more in Pennsylvania, and one in Detroit, in the Territory of Michigan, they likewise deserve the patronage and support of Congress. Your committee find that the principle and policy of extending aid to institutions of this character, have been recognised by the Congress of the United States in a grant made to Connecticut Asylum; and in that case they discover a strong precedent to justify the passage of a bill for the benefit of the Asylum of Kentucky, and those of New York and Pennsylvania, and Michigan. They therefore beg leave to report a bill.

THE GAZETTE.

THURSDAY, FEBRUARY 17, 1825.

TERMS; THREE [illegible] PAYABLE IN ADVANCE.

[illegible] M'CALLA.

RUSSIA AND KENTUCKY HEMP.

In a late [illegible] a statement from the Secretary of the Navy [illegible] which influenced the Navy [illegible] foreign instead of American hemp [illegible] Navy. Among the reasons, was the difference in the colour, ours being dark whilst the foreign was light.

We refer our readers to a communication from Capt Gaines, in this day's paper, on that subject; although the plan therein detailed has been published before, yet as many may not have seen it, we are glad to give it another insertion. We have the specimen which the author forwarded with the communication, as also one from Maj. D. S. Price of Jessamine, which was prepared in the same way. We are satisfied that neither of them would be rejected by the Navy board on account of its darkness of colour. If our hemp growers would so cultivate the article, as to make the fibre soft and fine, by sowing thicker than usual, we think our hemp would *pass inspection*.

KENTUCKY'S STATE PAPERS

We commence to lay [illegible] of the series of [illegible] the subjects [illegible] Legislative and judicial controversy. The [illegible] read and determine their respective [illegible] all important that that information [illegible] them of [illegible] official and weight [illegible] counteract the influence [illegible] and palpable misstatements [illegible] and misrepresentations which are [illegible] the public by the leaders of the [illegible] party [illegible] no doubt they will prevail by [illegible]. In this they will be disappointed, as they [illegible] their ambitious views in the last Legislature.

PUBLIC MEETING IN FAYETTE.

A meeting took place at the Methodist Church in this town on Monday last, of the old court party. It was called by a request in the Reporter, and every exertion was made to induce the friends of constitutional liberty, and the rights of the people to attend. The course pursued was to appoint a committee of which, we believe *Mr. E. I. Winter* was chairman, to draft resolutions. The committee retired and in *six minutes* produced a set of resolutions with [illegible]. We are inclined to think it was intended not to have any discussion, but to pass the resolutions, instanter. The address of the Judges was read, and the question then called for. A slight attempt was made to oppose the sixth resolution, but all discussion was loudly opposed, except when the gentlemen of the Court party were speaking, when order was preserved. But when the vote was finally taken on that resolution to our astonishment, there was but little difference in the sound; and although we concede there was a majority in favor of the resolution yet we question if it was worth boasting of. There were a considerable number of persons from the neighbouring counties; and although a resolution was offered and [illegible], to prevent such persons from voting, yet the putting the question was successfully opposed. It was proposed to count the number present, and tellers stationed at the doors of the church. One of the gentlemen who acted in that capacity states that 230 persons came out of the door at which he stood and probably near the same number at the other door, which included those who were from other counties, as well as boys. This will scarcely be taken as a representation of Fayette, which contains 2,500 voters of its own.

ANOTHER SLANDER.

In the last Reporter it is asserted that Judges *Barry* and *Haggin* have been in attendance on the Fayette Circuit Court, since the adjournment of the Court of Appeals. This conveys the idea that they were attending to the practice of the Court. We are authorised to say, that those gentlemen have not directly or indirectly attended to the practice of law in this Court since their adjournment; and that the only business they have transacted was to appoint gentlemen of the profession to attend to their unfinished business.—We have endeavoured to avoid *rudeness* in the contradiction of this slander, as it appears to *shock the nerves of some gentlemen* so severely.

MR. CLAY & MR. KREMER.

The following papers shew the present state of the controversy between those gentlemen.—The House of Representatives, after a debate of two days, referred the case to a committee of seven members, who are to be chosen by ballot.

Against the charge of corruption, which, if true, should and will prostrate Mr. Clay in the public estimation we place without hesitation, a long life of political integrity unstained by suspicion. His assailant professes to have proof to support his charge. We will wait for that proof before we say any more on the subject. If he does not produce it, he should be expelled the house. If he does, his antagonist should meet that fate.

WASHINGTON, Jan. 25, 1825.

Dear Sir—I take up my pen to inform you of one of the most disgraceful transactions that ever covered with infamy the Republican Ranks. Would you believe that men professing *Democracy*, could be found base enough to lay the axe at the very root of the tree of Liberty? Yet strange as it is, it is not less true. To give you a full history of this transaction would far exceed the limits of a letter. I shall therefore at once proceed to give you a brief account of such a bargain as can only be equalled by the *famous Burr Conspiracy* of 1801. For some time past, the friends of Clay have hinted that they like the Swiss, would fight for those who would pay best. Overtures were said to have been made by the friends of Adams to the friends of Clay, offering him the appointment of Secretary of State, for his aid to elect Adams. And the friends of Clay gave this information to the friends of Jackson, and hinted that if the friends of Jackson would offer the same price, they would close with them. But none of the friends of Jackson would descend to such mean barter and sale. It was not believed by any of the friends of Jackson, that this contract would be ratified by the members from the states, who had voted for Mr Clay.

I was of opinion when I first heard of this transaction, that men professing any honourable principle could not, nor would, be transferred like the planter does his negroes, or the farmer his team and horses. No alarm was excited—we believed the Republic was safe. The Nation having delivered Jackson into the hands of Congress, backed by a large majority of their votes, there was on my mind no doubt that Congress would respond to the will of the Nation, by electing the individual they had declared to be their choice. Contrary to this expectation, it is now ascertained to a certainty, that Henry Clay has transferred his interest to John Quincy Adams. As a consideration for this abandonment of duty to his constituents, it is said and believed, should this unholy coalition prevail, Clay is to be appointed Secretary of State. I have no fears on my mind—I am clearly of opinion we shall defeat every combination. The force of public opinion must prevail, or there is an end of Liberty."

A CARD.

I have seen, without any other emotion than that of ineffable contempt, the abuse which has been poured out upon me by a scurrilous paper, issued in this city, and by other kindred prints and persons, in regard to the Presidential election. The editor of one of those prints, ushered forth in Philadelphia, called the Columbian Observer, for which I do not subscribe, and which I have not ordered, has had the impudence to transmit to me his vile paper of the 28th instant. In that number is inserted a letter, purported to have been written from this city on the 25th instant, by a Member of the house of Representatives, belonging to the Pennsylvania delegation. I believe it to be a forgery; but, if it be genuine, I pronounce the member, whoever he may be, a base and infamous calumniator, a dastard and a liar—and if he dare unveil himself and avow his name, I will hold him responsible as I here admit myself to be, to all the laws which govern and regulate the conduct of men of honour,

H. CLAY.

JANUARY 31st, 1825.

ANOTHER CARD.

GEORGE KREMER, of the house of Representatives, tenders his respects to the Honorable "H. Clay," and informs him, that, by reference to the Editor of the Columbian Observer, he may ascertain the name of the writer of a letter of the 25th ult. which, it seems, has afforded so much concern to "H. Clay;" in the mean time, George Kremer holds himself ready to prove, to the satisfaction of unprejudiced minds, enough to satisfy them of the accuracy of the statements which are contained in that letter, to the extent that they concern the course and conduct of "H. Clay." Being a Representative of the People, he will not fear to "cry aloud and spare not," when their rights and privileges are at stake.

Appeal by the Speaker to the House.

The SPEAKER (Mr CLAY) rose from his place, and requested the indulgence of the House for a few moments, while he asked its attention to a subject, in which he felt himself deeply concerned. A note had appeared this morning, in the National Intelligencer, under the name, and with the authority, as he presumed, of a member of this house from Pennsylvania (Mr Kremer) which adopted, as his own a previous letter, published in another print containing serious and injurious imputations against him, and which the author avowed his readiness to substantiate by proof. These charges implicated his conduct, in regard to the pending Presidential election; and the respectability of the station which the member holds, who thus openly prefers them, and that of the people whom he represents, entitled them to grave attention. It might be indeed worthy of consideration, whether the character and dignity of the House itself did not require a full investigation of them, and an impartial decision on their truth. For if they were true, if he were capable and base enough to betray the solemn trust which the constitution had confided to him; if, yielding to personal views and considerations, he could compromit the highest interests of his country, the House would be scandalized by his continuing to occupy the chair with which he had been so long honored in presiding at its deliberations, and he merited instantaneous expulsion. Without however presuming to indicate what the house might conceive it ought to do on account of its own purity & honour, he hoped that he should be allowed respectfully to solicit, in behalf of himself, an inquiry into the truth of the charges to which he referred. Standing in the relations to the house, which both the member from Pennsylvania and himself did, it appeared to him that here was the proper place to institute the inquiry, in order that if guilty, there the proper punishment might be applied, and if innocent, that there his character & conduct may be vindicated. He anxiously hoped, therefore, that the house would be pleased to direct an investigation to be made into the truth of the charges. Emanating from the source which they did, this was the *only* notice which he could take of them. If the house should think proper to raise a committee, he trusted that some other than the ordinary mode pursued by the practice and rules of the House would be adopted to appoint the committee.—*Int.*

James C. Pickett of Mason county, has been appointed Secretary of State in the place of W. T. Barry, resigned.

JUDGE PATTON.

We have seen a letter from B. Patton, Esq. in which he states, that he is slowly recovering his health and accept the appointment of Judge of the Court of Appeals. We hope he will be able to attend at the next term; for his talents and acquirements will add much to the respectability and weight of the Court.

Argus.

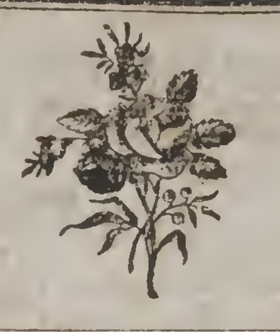
We state *on authority*, that Judge Roper consented by letter to set on the trial of Isaac B. Desha; but that he apprised Judge Trimble he had changed his mind on the eve of the trial. Judge Shannon was the nearest Circuit Judge and was applied to for that reason. To those who are charging Judges Trimble, Shannon, &c. &c. with corruption, we say, *go on.* Judge Shannon has already been burnt in effigy in a neighbourhood in Harrison county and in another in Bourbon. Wickliffe's speech, threats to juries and such proceedings, are the modes through which many men seem now to seek the orderly and independent administration of Justice!!—*Ibid.*

MARRIED—By the Rev. N. H. Hall, on the 15th inst Mr. James E. Christian to Miss Elizabeth, daughter of Jacob Kiser Esq. both of this county.

On Thursday the 10th inst. by the Rev. John Breckinridge, Mr. Clemant Dunkin to Miss Catharine Ann Woodruff, both of this place.

DIED—In this town on the 15th inst. Mr Levi Outen, in the 81st year of his age.

——At the residence of Mr. P. Bain, on the 4th instant, MR. DAVID STOUT, Son of John W. Stout, deceased.



POETRY

So 'tis with love.
Its' filmy wing of azure hue,
Lightly the fluttering insect plies,
Breathless the joyful train pursues,
But onward still the wanderer flies;
If one at length the prize obtain,
He thinks it fairer for his pain;
So 'tis with love.

What sweetens the poor peasant's sleep!
What makes the warrior's laurel dear!
Why joy the heroes of the deep
When first their native cliffs appear!
Oh! 'tis the thought of dangers o'er
Gives present bliss to charm the more;
So 'tis with love!

MARTIAL HYMN.

Oh, the sight entrancing
When morning's beam is glancing
O'er fields array'd
With helm and blade,
And plumes in the gay wind dancing;
And the trompets voice repeating
That song whose breath
May lead to death,
But never to retreating!
Oh the sight entrancing
When morning's beam is glancing
O'r fields array'd
With helm and blade
And plumes in the gay wind dancing.

Yet 'tis not helm or feather—
His plumed bands
Could bring such hands
And hearts as ours together.
Leave pomp to those who need'em—
Adorn but man with freedom,
And proud he braves
The gaudiest slaves
That crawl where monarchs lead 'em—
The sword may pierce the beaver
Stone walls in time may sever,
'Tis heart alone
Worth steel and stone
That keeps man free forever.
Oh that sight entrancing
When morning's beam is glancing
O'er files arrayed,
With helm and blade
And in Freedom's cause advancing.

MOORE.

Two Irishmen meeting in the street mistook each other for some other persons and shook hands, but immediately discovering their mistake; one says to the other, "You thought it was me and I thought it was you, but faith I believe it's neither of us.

Some great English Engineer, no matter who, was call'd before the House of Commons to state facts touching canals &c. Perhaps he meant to get the job of building one;—be that as it may he declared that canals were of more use than any one thought them or has found them since. A member of the commons a little amazed at his trotting his hobby so violently, uttered a "Pray, Sir, if canals are thus omnipotent of good, are not navigable rivers of some use?" "Certainly sir," replied our Engineer: "they serve to feed navigable canals."

Financial Pun.—While the celebrated Doctor Cyril Jackson was Dean of Christ Church, Oxford, the conversation turned after dinner, at his table, on a plan of taxing the funds, which Mr. Pitt was then said by some to have in contemplation. The Dean, in the course of the conversation turned to a young gentleman-commoner who dined with him, and in a joking way "Well, Mr.——, what do you think of this plan of taxing funded property?"—"I think sir," replied the other, "there is classical authority for it: *quodcumque infundis acescit*, (*in fund is assessit.*) One pleasantly reminds us, by association, of another. Many years ago, just as a learned judge had closed his charge to a Grand Jury, an ass began to bray within hearing of the Court, when a barrister sarcastically whispered to his next neighbour, "What an extraordinary echo there is in this Court." This sarcasm reached the ear of the learned Judge, who bore it with his accustomed good temper, but did not discharge it from his memory. Years after while the person to whom the sarcasm had been attributed, was addressing the Court, by a whimsical coincidence, an ass was heard to bray; when the witty, noble, and well tempered Judge exclaimed, with affected gravity, 'Gentlemen, this is quite irregular; one at a time, and I will hear you both."

A paris paper, of the 24th of November, contains the following mysterious occurrence, which is said to have taken place in the environs of that city;—"A person exercising public functions, having, been appointed guardian to a young lady, was unfaithful to his trust, and in order to conceal his delinquency, contemplated an union between his son and his ward. The latter constantly refused, on account of a secret attachment to another young man. The guardian was the more mortified at the refusal, as the time approached for surrendering his accounts. He came to Paris with his son, leaving in the country his daughter, of the same age as his ward; but suddenly returned home, when he arrived very late. A single servant knew of the return of his master. The ward was going to bed, when she heard a noise in the garden under her windows. Upon listening she heard heavy dead blows, which filled her with alarm, and she went to the chamber of her companion saying that she was coming to sleep with her.—The latter ridiculed her for cowardice, and in order to prove that there was no danger, offered to exchange beds for the night; the offer was accepted; the grave destined for the victim was the digging of this that the ward heard. The assassins entered the chamber where they imagined they should find their pray. They were armed not with a dagger but a mask of softened pitch, which they applied to the face of the sleeping girl, and when assured she was dead, transported her to the garden and buried her. The agitation of father and son was extreme on the following morning, when they saw the ward, whom they supposed to be murdered, come into breakfast. The latter being filled with fear, ran to seek her friend, and not finding her went out and informed the magistrates, who ordered the murderers to be apprehended. The affair is now in a cource of investigation."

(*Belvideer Apollo.*)

Town Ordinances.

Board of Trustees; Lexington, February 3, 1824.

BE in ordained by the Board of Trustees of the town of Lexington: that each owner of a House in the limits of said Town be directed and required to furnish to the general Fire Committee appointed by the Board on or before the first day of April next as many fire buckets as they are at present required to keep in their houses, and that in future the said owners of houses be exempted from the duty of keeping Fire buckets in their house

2. Be it further ordained that a receipt shall be given by the fire Committee or their agent to those persons who shall furnish buckets in accordance with the foregoing requision which receipt shall be a full release to them from the penalty of not keeping bukets in their house

Passed the first reading.
Att.
JOSEPH TOWLER Clk b. t.

Board of Trustees; Lexington February 3, 1825,

BE it ordained by the Board of Trustees of the town of Lexington: That any wagoner who shall feed his horses in any of the streets of the Town except below the Ware House on water-street, or so place their waggons as to obstruct the passage in any street, or shall back up their waggons to the market house so as to interfere with those persons who rent stalls at either of the market houses, except those persons who attend the markets or unless they have in their waggon some articles designed to be offered in the markets for sale, shall forfeit three dollars.

Passed the first reading
Att
JOSEPH TOWLER. Clk. b. t.

CAUTION.

THE public are hereby notified that any person or persons found taking or laying down any fence or fences or cutting down any timber on any of our plantations or woodpastures, shall be dealt with according to Law; or any stock found trespassing on said premises (our tenants excepted) shall be taken up as estrays and dealt with as the Law directs.

JOSE H BEARD, Se .
H BEARD,
JOS M. BEARD,
LAWRENCE DALY,
FRANCIS M'LEAR,
CHARLES M'LEAR,
WILLIAM ROMAN.

January 27 1825—4-3t

To the Public.

The partnership hertofore existing between the subscribers under the name and firm of CONNELL and McMAHON has been dissolved by mutual consent, and *Walter Connell* has become the sole proprietor of the Brewery heretofore owned by said firm. All persons indebted to said firm are requested to make payment to said Connell, as he alone is authorized to collect the debts. Those having claims against said firm are notified to call on said Connell in order to have the same adjusted

WALTER CONNELL,
JOHN McMAHON.

Oct 3 1814.—44.—tf.

$50 REWARD.

I Will give the above reward in notes of the Commonwealth's Bank, for the apprehension and conviction of the person, who broke into my store room in the town of Versailles, on the night of the fourteenth inst. and took out of my money drawer about two hundred dollars, principally in tickets issued by the subscriber, the greater portion of which were seventy-five and sixty-two-and-a-half cents notes Persons holding tickets for the above sums are requested to bring them in and exchange them for other tickets, or to receive the commonwealth's notes for them The public are desired to observe particularly of whom they receive tickets of the above denomination issued by

DANIEL PRICE.

Versailles Ky Jan 20 1825—3-tf